IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 20 of 2005

WITH

CIVIL APPLICATION NO.144 of 2005

WITH

CIVIL APPLICATION NO. 355 OF 2005

Haresh Saigal .. Appellant

versus

Municipal Corporation of Gr.Mumbai

& ors. .. Respondents

...

None present for the appellant.

Mrs.Geeta Joglekar for the respondent nos.1 and 2.

Mr. S.I. Menon for the Intervenor.

CORAM : B.H. MARLAPALLE,J

DATED : 30th September 2005

P.C.:

1. On the motion moved by the learned counsel for the Corporation, this appeal was listed for

orders on 28th September 2005 and when it was taken out on that day, none was present for the appellant. The appeal was therefore made to stand over today at 3.00 p.m. When the appeal is called out, none is present for the appellant.

2. It had been pointed out that Notice of Motion no.1892 of 2004 was filed in L.C.Suit no.2281 of 2004 by the appellant plaintiff and ad-interim order came to be passed in his favour by the learned Judge of the City Civil Court on 6th May 2004 restraining the respondent no.1 i.e. the Municipal Corporation from taking any action. Chamber Summons no.630 of 2004 was taken out by the present respondent no.3 and the same was dismissed as withdrawn on 1st November 2004. By the said order dated 1st November 2004 passed in Chamber Summons No.6300 of 2004, the learned Judge of the City Civil Court was pleased to reject the ad-interim order granted in favour of the plaintiff on 6th may 2004 and obviously under Rule 4 of Order XXXIX. This appeal came to be filed by the plaintiff being aggrieved that the ad-interim order was vacated.

3. It is now pointed out that Notice of Motion

no.1892 of 2004 has been finally decided by the trial Court on 1st September 2005 and it has been dismissed. The learned counsel for the Corporation therefore submitted that this appeal does not survive any further and it has become infructuous consequent to the dismissal of the Notice of Motion.

4. Copy of the order dated 1st September 2005 dismissing the Notice of Motion no.1894 of 2004 is taken on record and the appeal is dismissed as infructuous.

5. Civil Application nos.144 of 2005 and 355 of 2005 do not survive and therefore dismissed as such.

B.H. MARLAPALLE, J